

BOARD BILL # 366 **INTRODUCED BY ALDERMEN PHYLLIS YOUNG,**

COMMITTEE SUBSTITUTE **FRED WESSELS, LYDA KREWSON,**

STEPHEN GREGALI, KENNETH ORTMANN, JENNIFER FLORIDA,

JOSEPH VOLLMER AND DOROTHY KIRNER

AN ORDINANCE AFFIRMING ADOPTION OF A DEVELOPMENT PLAN,

DEVELOPMENT AREA, AND DEVELOPMENT PROJECT UNDER THE AUTHORITY OF

THE MISSOURI DOWNTOWN AND RURAL ECONOMIC STIMULUS ACT, SECTIONS

99.915 TO 99.1060 OF THE REVISED STATUTES OF MISSOURI, AS AMENDED (THE

“ACT”); AUTHORIZING AND DIRECTING THE EXECUTION OF A DEVELOPMENT

AGREEMENT BETWEEN THE CITY OF ST. LOUIS AND BALLPARK VILLAGE

DEVELOPMENT CORPORATION IN ACCORDANCE WITH THE ACT AND SAID

DEVELOPMENT PLAN; PRESCRIBING THE FORM AND DETAILS OF SAID

AGREEMENT; MAKING CERTAIN FINDINGS AS REQUIRED BY THE ACT WITH

RESPECT TO SAID AGREEMENT; DESIGNATING BALLPARK VILLAGE

DEVELOPMENT CORPORATION AS DEVELOPER OF THE DEVELOPMENT AREA IN

ACCORDANCE WITH THE ACT; MAKING CERTAIN FINDINGS WITH RESPECT

THERETO; AUTHORIZING OTHER RELATED ACTIONS BY CITY OFFICIALS IN

CONNECTION WITH THE AGREEMENT AND THE DEVELOPMENT OF CERTAIN

PROPERTY WITHIN THE DEVELOPMENT AREA; AND CONTAINING A

SEVERABILITY CLAUSE.

1 WHEREAS, the City of St. Louis, Missouri (the “City”), is a body corporate and a
2 political subdivision of the State of Missouri, duly created, organized and existing under and by
3 virtue of its charter, the Constitution and laws of the State of Missouri; and

4 WHEREAS, the Missouri Downtown and Rural Economic Stimulus Act, Sections 99.915
5 to 99.1060 of the Revised Statutes of Missouri, as amended (the “Act”), authorizes cities to
6 undertake development projects in development areas, as defined in the Act; and

7 WHEREAS, the Board of Aldermen of the City created the Downtown Economic
8 Stimulus Authority of the City of St. Louis (the “Authority”) pursuant to Ordinance No. 67097;
9 and

10 WHEREAS, the Act authorizes the Authority to hold hearings with respect to proposed
11 development areas, plans and projects and to make recommendations thereon to the Board of
12 Aldermen; and

13 WHEREAS, the Authority has reviewed a plan for development titled “MODESA
14 Development Plan: Ballpark Village Development Area” (the “Development Plan”), for the
15 Development Area, as more fully described in the Development Plan; and

16 WHEREAS, the Development Plan contemplates the remediation of blighting conditions
17 within the Development Area through construction of retail, entertainment, commercial and
18 other development, as well as parking and other infrastructure improvements, as more fully
19 described therein (collectively, the “Development Project”); and

20 WHEREAS, the Authority held a public hearing in conformance with the Act on
21 November 6, 2008 and received comments from all interested persons and taxing districts

1 relative to the Development Plan, the designation of the Development Area and the adoption and
2 approval of the Development Project; and

3 WHEREAS, on November 6, 2008, after due deliberation, the Authority adopted a
4 resolution recommending, among other matters, that the Board of Aldermen designate the
5 Development Area as a “development area” pursuant to the Act, adopt the Development Plan
6 and the Development Project, and adopt development financing within the Development Area;
7 and

8 WHEREAS, pursuant to Ordinance No. _____ [Board Bill No. 365], the Board of
9 Aldermen has determined that adoption of the Development Plan and completion of the
10 Development Project is of economic significance to the City, will serve to benefit the general
11 welfare, qualifies for the use of tax increment allocation financing to alleviate the conditions that
12 qualify it as a “development area” as provided in the Act, and further, that development of the
13 Development Area in accordance with the Development Plan is not financially feasible without
14 the adoption of development financing and would not otherwise be completed; and

15 WHEREAS, the Development Area qualifies for the use of development financing to
16 alleviate the conditions that qualify it as a “blighted area” as provided in the Act and as set forth
17 herein; and

18 WHEREAS, it is necessary and desirable and in the best interest of the City to enter into
19 the Development Agreement with Ballpark Village Development Corporation (the “Developer”),
20 in order that Developer may complete the Development Project; and

21 WHEREAS, pursuant to the provisions of the Act, the City is authorized to enter into a
22 Development Agreement with Ballpark Village Development Corporation, as Developer, setting

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1 forth the respective rights and obligations of the City and Developer with regard to the
2 development of the Development Area (the “Development Agreement”); and

3 WHEREAS, the Board of Aldermen hereby determines that the terms of the
4 Development Agreement attached as **Exhibit A** hereto and incorporated herein by reference are
5 acceptable and that the execution, delivery and performance by the City and the Developer of
6 their respective obligations under the Development Agreement are in the best interests of the
7 City and the health, safety, morals and welfare of its residents, and in accord with the public
8 purposes specified in the Act and the Development Plan.

9 BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

10 SECTION ONE. The Board of Aldermen hereby ratifies and confirms its approval of the
11 Development Plan, Development Area, and Development Project. The Board of Aldermen
12 further finds and determines that it is necessary and desirable to enter into the Development
13 Agreement with Ballpark Village Development Corporation, as developer of the Development
14 Area, in order to implement the Development Project and to enable the Developer to carry out its
15 proposal for development of the Development Project.

16 SECTION TWO. The Board of Aldermen finds and determines that the assistance of
17 development financing is necessary and desirable in order to implement the Development Project
18 and to enable Ballpark Village Development Corporation, as developer of the Development
19 Area, to carry out its proposal for development of the Development Project.

20 SECTION THREE. The Board of Aldermen hereby approves, and the Mayor and
21 Comptroller of the City are hereby authorized and directed to execute, on behalf of the City, the
22 Development Agreement by and between the City and the Developer in substantially the same

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1 form attached hereto as Exhibit A, with such changes as are authorized pursuant to Section Five
2 hereof, and the City Register is hereby authorized and directed to attest to the Development
3 Agreement and to affix the seal of the City thereto. The Development Agreement shall be in
4 substantially the form attached, with such changes therein as shall be approved by said Mayor
5 and Comptroller executing the same and as may be consistent with the intent of this Ordinance
6 and necessary and appropriate in order to carry out the matters herein authorized.

7 SECTION FOUR. The Mayor and Comptroller of the City or their designated
8 representatives are hereby authorized and directed to take any and all actions to execute and
9 deliver for and on behalf of the City any and all additional certificates, documents, agreements or
10 other instruments as may be necessary and appropriate in order to carry out the matters herein
11 authorized, with no such further action of the Board of Aldermen necessary to authorize such
12 action by the Mayor and the Comptroller or their designated representatives.

13 SECTION FIVE. The Mayor and the Comptroller or their designated representatives,
14 with the advice and concurrence of the City Counselor and after approval by the Board of
15 Estimate and Apportionment, are hereby further authorized and directed to make any changes to
16 the documents, agreements and instruments approved and authorized by this Ordinance as may
17 be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out
18 the matters herein authorized, with no such further action of the Board of Aldermen necessary to
19 authorize such changes by the Mayor and the Comptroller or their designated representatives.

20 SECTION SIX. It is hereby declared to be the intention of the Board of Aldermen that
21 each and every part, section and subsection of this Ordinance shall be separate and severable
22 from each and every other part, section and subsection hereof and that the Board of Aldermen

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1 intends to adopt each said part, section and subsection separately and independently of any other
2 part, section and subsection. In the event that any part, section or subsection of this Ordinance
3 shall be determined to be or to have been unlawful or unconstitutional, the remaining parts,
4 sections and subsections shall be and remain in full force and effect, unless the court making
5 such finding shall determine that the valid portions standing alone are incomplete and are
6 incapable of being executed in accord with the legislative intent.

7 SECTION SEVEN. The Bonds and the interest thereon shall be special, limited
8 obligations of the Issuer, and shall not constitute an indebtedness of the City, the Issuer or the
9 State of Missouri within the meaning of any constitutional or statutory debt limitation or
10 restriction. The obligation of the City to make payments of Economic Activity Taxes, Dedicated
11 Municipal Revenues and Contractually Pledged City Revenues is subject to annual appropriation
12 as provided herein. The taxing power of the City is not pledged to the payment of the Bonds
13 either as to principal or interest or to the payment of State MoDESA Revenues or Local
14 MoDESA Revenues under any financing agreement related thereto.

15 SECTION EIGHT. The City hereby agrees, so long as the Bonds are outstanding, to
16 apply the Available Revenues and Contractually Pledged City Revenues and any taxes, fees or
17 assessments subsequently enacted and imposed in substitution therefore and allocable to the
18 Special Allocation Fund to the repayment of the Bonds in accordance with the Financing
19 Agreement. The City covenants and agrees that it will comply with the Charter of the City of St.
20 Louis, Article XVI, Section 3, for each fiscal year that the Bonds are outstanding and the City
21 will request an appropriation of all Available Revenues and Contractually Pledged City
22 Revenues for application to the payment of principal and interest on the Bonds. All capitalized

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1 terms used (but not otherwise defined) in Sections Seven and Eight hereof shall have the
2 meaning set forth in the Development Agreement, or, if no definition is provided therein, in
3 Ordinance No. _____ [Board Bill 367].

EXHIBIT A

**FORM OF DEVELOPMENT AGREEMENT BY AND BETWEEN THE
CITY OF ST. LOUIS AND THE DEVELOPER**

(Attached hereto.)